

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP,
BI-LEVEL PAP, AND MECHANICAL
VENTILATOR PRODUCTS
LITIGATION

This Document Relates to: *All Actions*

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: Master Docket: No. 21-mc-1230-JFC
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: MDL No. 3014
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**JOINT STATUS REPORT REGARDING EVIDENTIARY HEARING ON
DEFENDANT KONINKLIJKE PHILIPS N.V.'S RULE 12(B)(2) MOTIONS**

Pursuant to the Court's directions at the August 8, 2023 conference, Plaintiffs and Defendant Koninklijke Philips N.V. ("KPNV") submit this Joint Status Report regarding scheduling and planning for the evidentiary hearing regarding KPNV's Rule 12(b)(2) motions to dismiss for lack of personal jurisdiction.

Since the Parties appeared before the Court last week, they have met and conferred with Special Master Katz several times. With Special Master Katz's oversight, the Parties have made substantial progress to best ensure that all pre-hearing matters are resolved expeditiously and without necessitating this Court's involvement. The Parties are currently on track to complete the pre-hearing matters by September 19, 2023.

I. Renewed Briefing

Consistent with the Court's directions, the upcoming round of briefing will solidify three features of the upcoming evidentiary hearing: *First*, the Renewed Opposition and Renewed Reply will supersede the prior Opposition and Reply briefs submitted by each side and will set forth each Party's arguments in full. *Second*, both sides will identify in their Renewed Opposition and Renewed Reply the full universe of witnesses they will be calling live at the hearing. *Third*, the Renewed Opposition and Renewed Reply will define the universe of exhibits for the hearing, as

all exhibits to be used at the hearing will be identified in the Parties' Renewed Opposition and Reply. Once the Renewed Briefs are filed, the Parties will then file their Pre-Hearing Statements, in which each side will summarize the issues to be tried.

The Parties are prepared to meet each of the deadlines the Court ordered, which are recited below:

- **August 22, 2023** – Plaintiffs' Renewed Opposition to KPNV's Personal Jurisdiction Motions – Identifying all operative legal/fact issues, Plaintiffs' witness list, and all exhibits Plaintiffs will be relying on at the hearing.
- **September 5, 2023** – KPNV's Renewed Reply in Support of its Personal Jurisdiction Motions – Responding to Plaintiffs' legal/fact issues and identifying KPNV's witness list and all exhibits KPNV will be relying on at the hearing.
- **September 12, 2023** – Plaintiffs' Pre-Hearing Statement.
- **September 19, 2023** – KPNV's Pre-Hearing Statement.

The parties propose, subject to the Court's approval, a 50-page limit for Plaintiffs' Renewed Opposition and KPNV's Renewed Reply.

Subject to any objection from the Court, the Parties have agreed to utilize the old joint exhibit numbers from the prior exhibit list in their upcoming briefs and at the hearing. The Parties are proposing this course of action for expediency and to avoid redoing the exhibit binders previously delivered to the Court. The Parties understand that this may create gaps in the exhibit numbering if certain exhibits are no longer used from the prior exhibit list, but determined that this is still less burdensome than re-numbering, re-branding and re-printing the exhibits. Any newly added exhibits will be included at the end of the existing list, starting at JX-424.

II. Depositions

To finalize the evidentiary record, Plaintiffs requested limited depositions of four individuals (three former employees and one current employee of one of more of the Philips Group companies) in connection with the evidentiary hearing. KPNV has been working around the clock

to facilitate these depositions and ensure that they take place as quickly as possible. All four depositions have now been scheduled, for August 29, August 30, August 31 and September 5. Given that the depositions will take place after Plaintiffs' Renewed Opposition is due, KPNV and Plaintiffs both have agreed not to contest the use of these deposition transcripts (and documents marked as the depositions) as exhibits at the evidentiary hearing on timing-related grounds (but otherwise reserve their right to make other objections).

Consistent with this Court's directions, all depositions will be virtual and will be limited to three hours, and especially because these depositions do not "count" toward Plaintiffs' limits, the subject matter of each deposition will be limited to matters relevant to the question of personal jurisdiction over KPNV, not the merits of the underlying litigation. Plaintiffs and KPNV will identify all of the documents they intend to use as exhibits at each deposition prior to each deposition on a schedule to be negotiated by the parties with the assistance, if necessary, of Special Master Katz.

III. Plaintiffs' Additional Document Requests

As directed by the Court, the Parties have met and conferred with Special Master Katz to avoid any potential disputes regarding the scope of discovery. On Friday, August 11, Plaintiffs served written document requests on KPNV and the other Philips Defendants. The Philips Defendants have agreed to look into Plaintiffs' requests and produce any responsive materials as expeditiously as possible so long as there is no significant burden (*i.e.*, searching individual custodians' files). The Philips Defendants anticipate informally producing these documents to Plaintiffs later today, and anticipate formally producing these documents (with bates numbers) to Plaintiffs by the end of this week.

IV. Timing for Evidentiary Hearing

In light of the forgoing, the Parties are prepared to discuss rescheduling the evidentiary hearing at tomorrow's case management conference, and will be ready to proceed with the evidentiary hearing on a date in October, subject to the Court's availability.

Dated: August 16, 2023

Respectfully submitted,

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